

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Eric Wachter, et. al.

Serial No.:

Filed: Herewith

For: Improved Methods and Apparatus)
For Multi-Photon Photo-)
Activation of Therapeutic)
Agents)

Examiner:

Art Unit:

) "Express Mail" Mailing Label No. EL14031
241245

) Date of Deposit JUNE 12, 1998

) I hereby certify that this paper or fee is being
) deposited with the United States Postal Service
) "Express Mail Post Office to Addressee" service
) under 37 CFR 1.10 on the date indicated above
) and is addressed to the Assistant Commissioner
) for Patents, Washington, D.C. 20231.

) Name GINY WALLACE
) (typed or printed)

) Signature Giny Wallace

June 12, 1998

ASSIGNEE'S STATEMENT OF STATUS
AS A SMALL ENTITY

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The undersigned Declarant, on behalf of the assignees of the captioned application, respectfully submit this verified STATEMENT OF STATUS AS A SMALL ENTITY pursuant to 37 C.F.R. §1.9 and 1.27.

1. PHOTOGEN, INC. a Tennessee corporation existing under the State of Tennessee is the Assignee of the entire right, title and interest in the above-identified patent application of Walter Fisher, Eric Wachter and John Smolik filed herewith as shown by the Assignment, a copy of which is attached hereto.

2. Declarant is the Secretary of PHOTOGEN, INC. a corporation organized and existing under the laws of the State of

Tennessee, having offices at 7327 Oak Ridge Highway, Knoxville, Tennessee 37931. Declarant is empowered to act on behalf of PHOTOGEN, INC. for matters relating to prosecution of the above-identified patent application.

3. PHOTOGEN, INC. has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license any rights in the invention or application to any person.

4. PHOTOGEN, INC. is a small business concern as defined by 37 C.F.R. §1.9(d), having fewer than 500 employees.

Declarant acknowledges PHOTOGEN'S obligation to notify the United States Patent Office, prior to or at the time of paying the issue fee in this case, of any change in its status as a small business concern, or of any obligation to assign, grant, convey or license or any actual assignment, grant, conveyance, or license of the above cited patent application to other than a small entity as defined by 37 C.F.R. §1.9.

Declarant acknowledges that willful false statements and the like so made herein are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of any patent resulting therefrom.

PHOTOGEN, INC.

Dated: 11 June 98

BY:



Eric A. Wachter, Secretary

**DECLARATION AND POWER OF
ATTORNEY ORIGINAL PATENT APPLICATION**

As a below named inventor, I hereby declare ~~that~~ ^{Express Mail} Mailing Label No. 614031 741245

Type of Application Date of Deposit JUNE 12, 1998

This declaration is for the following type **application**.
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

____ Original
____ Design
____ National Stage of PCT
____ Supplemental
____ Divisional
____ Continuation
 X Continuation-in-Part (CIP)

Name GINY WALLACE
(typed or printed)

Signature Giny Wallace

Inventorship Identification

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

IMPROVED METHODS AND APPARATUS FOR MULTI-PHOTON
PHOTO-ACTIVATION OF THERAPEUTIC AGENTS

Specification Identification

The specification of which:

 X is attached hereto.

____ was filed on _____ as
Application Serial No. _____
and was amended on _____ (if
applicable).

____ was described and claimed in PCT International
Application No. _____ filed on _____
and as amended under PCT
Article 19 on _____ (if any).

Acknowledgement of Review of Papers and Duty of Candor

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a), which provides:

A duty of candor and good faith toward the Patent and Trademark Office rests on the inventors, on each attorney or agent who prepares or prosecutes the application and on every other individual who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application. All such individuals have a duty to disclose to the Office information they are aware of which is material to the examination of the application. Such information is material where there is substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent. The duty is commensurate with the degree of involvement in the preparation or prosecution of the application.

_____ In compliance with this duty there is attached an information disclosure statement, 37 CFR 1.97.

I do not know and do not believe that the invention was ever known or used in the United States of America before my or our invention thereof; I do not know and do not believe that the invention was ever patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to this application; I do not know and do not believe that the invention was in public use or on sale in the United States of America more than one year prior to this application; and the invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application.

Priority Claim

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

_____ No such applications have been filed.

_____ Such applications have been filed as follows.

Country	Application Number	Date of Filing (Month/Day/Year)	Priority Claimed	
			Yes	No

Claim For Benefit Of Earlier U.S. Application Under 35 USC §120

I hereby claim the benefit under Title 35, United States Code, § 120 of any U.S. application(s) for patent that is listed below.

Country	Application Number	Date of Filing	Patent	Pending
U.S.	08/739,801	October 30, 1996		Yes

Power of Attorney

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Edward D. Manzo, 28,139

Send correspondence to:

Direct telephone calls to:

Edward D. Manzo, Esq.
COOK, EGAN, MCFARRON & MANZO, LTD.
200 West Adams Street
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Chicago, Illinois 60606

Edward D. Manzo, Esq.
(312) 236-8500

Declaration

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor Eric A. Wachter
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Residence 138 Bay Path Drive, Oak Ridge, Tennessee 37830
Post Office Address 138 Bay Path Dr. Oak Ridge, Tennessee 37830
Inventor's Signature *E. Wachter* Date 11 June 98

Full name of second joint inventor, if any Walter G. Fisher
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Post Office Address 7114 Ashburton Dr., Knoxville, Tennessee 37909
Inventor's Signature *Walter G. Fisher* Date 11 June 98

Full name of third joint inventor, if any John T. Smolik
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Post Office Address 119 Tanasi Ct., Loudon Tennessee 37774
Inventor's Signature *John T. Smolik* Date 6-11-98

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EL1403

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Wachter et al.

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For: Improved Methods And Apparatus
For Multi-Photon Photo-Activation
Of Therapeutic Agents

Examiner:

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) Signature Giny Wallace

June 12, 1998

Assistant Commissioner for Patents
Washington D.C. 20231

APPOINTMENT OF ASSOCIATE ATTORNEYS

Sir:

Please recognize the following as my associate attorneys in
the above captioned application:

Granger Cook Jr.	Reg. No. 18,383
Gary W. McFarron	Reg. No. 27,357
Stephen B. Heller	Reg. No. 30,181
Andrew G. Kolomayets	Reg. No. 33,723
Mark J. Murphy	Reg. No. 34,225
John R. Lagowski	Reg. No. P41,922

Respectfully submitted,

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